

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

BOBBY SANDERS,

Plaintiff,

v.

Case No. 18-CV-1945

JARED FRANKE, *et al.*,

Defendants.

ORDER

Plaintiff Bobby Sanders, who is representing himself, filed a complaint under 42 U.S.C. § 1983. On August 30, 2019, the defendants filed a motion for summary judgment on the grounds that the defendants are entitled to qualified immunity and that Sanders failed to exhaust his administrative remedies. (ECF No. 23.) Under Civil L.R. 56(b)(2), Sanders's response materials were due within thirty days of service of the motion. According to the court's records, he has not responded to the motion. Sanders's failure to respond suggests that he does not oppose the motion.

The court will give Sanders a final opportunity to file his response materials. If he does not do so by the below deadline, the court will grant the motion and dismiss the case with prejudice and without further notice to Sanders. *See* Civil L. R. 7(d) (“Failure to file a memorandum in opposition to a motion is sufficient cause for the Court to grant the motion.”); Civil L. R. 41(c) (“Whenever it appears to the Court that

the plaintiff is not diligently prosecuting the action . . . the Court may enter an order of dismissal with or without prejudice.”).

As a reminder, if Sanders responds to the motion, he must respond to each of the defendants’ proposed findings of fact by agreeing with each proposed fact or explaining why he disagrees with a particular fact. If he does not indicate one way or the other, the court will assume that he agrees with the proposed fact. Sanders must support every disagreement of a proposed fact with evidence. He can do that by relying on documents or by telling the court his version of what happened in an affidavit or an unsworn declaration under 28 U.S.C. § 1746.¹ An unsworn declaration is a way for a party to tell his side of the story while declaring to the court that everything in the declaration is true and correct. Sanders must also respond to the legal arguments in the defendants’ brief.

IT IS THEREFORE ORDERED that, by **November 20, 2019**, Sanders shall either respond to the defendants’ motion for summary judgment or file a letter explaining why he is unable to do so. If the court does not hear from Sanders by that date, the court will grant the defendants’ motion and dismiss this case.

Dated at Milwaukee, Wisconsin this 5th day of November, 2019.



William E. Duffin

WILLIAM E. DUFFIN
U.S. Magistrate Judge

¹ At the bottom of his declaration he should state: “I declare under penalty of perjury that the foregoing is true and correct. Executed on [date]. [Signature].” 28 U.S.C. § 1746(2).